

MEMORANDUM TO: David M. Spooner  
Assistant Secretary  
for Import Administration

FROM: Stephen J. Claeys  
Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Final Result of the Five-Year (“Sunset”) Reviews of the Antidumping Duty Orders on Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan

#### Summary

We have analyzed the responses of the interested parties in the sunset reviews of the antidumping duty orders on polyethylene terephthalate film, sheet, and strip (“PET Film”) from India and Taiwan. We recommend that you approve the positions we have developed in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in these sunset reviews for which we received substantive responses:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margin likely to prevail

#### History of the Orders

##### INDIA

On July 1, 2002, the Department of Commerce (“the Department”) published, in the Federal Register, the antidumping duty order on PET Film from India. See Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India, 67 FR 44175 (July 1, 2002) (Indian Order). The period of the investigation covered April 1, 2000 through March 31, 2001. In the Indian Order, the Department determined weighted-average dumping margins of 24.14 percent for Ester Industries and 24.14 percent for the all- others rate. The cash deposit rate was established as 5.71 percent when adjusted for the export subsidy rate calculated in the companion countervailing duty investigation. We calculated a weighted-average dumping

margin of 10.34 percent for Polyplex Corporation Limited (“Polyplex”) in the less than fair value investigation before adjusting the margin for export subsidies. However, because the rate for Polyplex was zero after adjusting the dumping margin for the export subsidies in the companion countervailing duty order, Polyplex was excluded from the order. Polyplex’s exclusion from the order was subsequently reversed in accordance with a decision of the Court of International Trade. See Dupont Teijin Films USA, LP, Mitsubishi Polyester Film of America, LLC, and Toray Plastics (America), Inc. v. United States and Polyplex Corporation Limited, USCIT Slip Op. 04-70 (June 18, 2004); Notice of Decision of the Court of International Trade: Polyethylene Terephthalate Film, Sheet, and Strip from India, 69 FR 40352 (July 2, 2004).

The Department has completed two administrative reviews since the issuance of the order, including a review of Polyplex, among other reviewed companies. The periods covered were December 21, 2001 through June 30, 2003, and July 1, 2004 through June 30, 2005.<sup>1</sup> An administrative review for an interim period (July 1, 2003 through June 30, 2004) was rescinded.<sup>2</sup> The July 1, 2005 through June 30, 2006 administrative review is currently ongoing and the final results are anticipated on December 5, 2007. See Certain Polyethylene Terephthalate Film, Sheet and Strip From India: Preliminary Results of Antidumping Duty Administrative Review, 72 FR 44086 (August 7, 2007).

Since the order was published, there has been one scope determination, dated August 25, 2003. In this determination, requested by International Packaging Films, Inc., the Department determined that tracing and drafting film is outside of the scope of the order.<sup>3</sup> However, there have been no circumvention determinations, duty absorption or changed circumstance reviews of this order.

## TAIWAN

On July 1, 2002, the Department published, in the Federal Register, the antidumping duty order on PET Film from Taiwan. See Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan, 67 FR 44174 (July 1, 2002) (Taiwan Order). The period of investigation covered April 1, 2000 through March 31, 2001. In the amended final determination and order, the Department determined weighted-average dumping margins of 2.49 percent for Nan Ya Plastics Corporation, Ltd. (“Nan Ya”), 2.05 percent for Shinkong Synthetic Fibers Corporation (“Shinkong”), and 2.40 percent for the “all others” rate.

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<sup>1</sup> See Certain Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Antidumping Duty Administrative Review 70 FR 8072 (February 17, 2005) and Certain Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Antidumping Duty Administrative Review 71 FR 47485 (August 17, 2006).

<sup>2</sup> See Certain Polyethylene Terephthalate Film, Sheet and Strip from India: Rescission of Antidumping Duty Administrative Review, 70 FR 2851 (January 18, 2005).

<sup>3</sup> See Notice of Scope Rulings, 70 FR 24533 (May 10, 2005).

The Department has conducted one administrative review since the issuance of the order. The review covered the period December 21, 2001 through June 30, 2003. See Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Final Results of Antidumping Duty Administrative Review and Correction to the Final Results of Administrative Review, 69 FR 50166 (August 13, 2004). In the amended final results of the administrative review, the Department determined dumping margins of 1.94 percent and 0.62 percent for Nan Ya and Shinkong, respectively. See Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Notice of Amended Final Results of Antidumping Duty Administrative Review, 69 FR 58129 (September 29, 2004).

There have been no scope rulings, circumvention determinations, duty absorption, or changed circumstances reviews of this order.

### Scope of the Orders

#### INDIA and TAIWAN

The products covered by these orders are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET Film are classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) under item number 3920.62.00. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of these orders is dispositive.

### Background

#### INDIA and TAIWAN

On June 1, 2007, the Department initiated a sunset review of the order on PET Film from India and Taiwan, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See Initiation of Five-Year (“Sunset”) Reviews, 72 FR 30544 (June 1, 2007) (Initiation). The Department received notices of intent to participate in the sunset reviews of both antidumping orders from the following domestic interested parties: DuPont Teijin Films (“DuPont”); Mitsubishi Polyester Film of America (“MFA”); SKC, Inc. (“SKC”); and Toray Plastics (America), Inc. (“TPA”) (collectively, “the PET Film Group”) within the deadline specified in section 351.218(d)(1)(i) of the Department’s regulations. DuPont, MFA, and TPA, were the petitioners in the original investigation. SKC supported the petition in the original investigation. The PET Film Group stated that it is not related to any Indian or Taiwanese producers or exporters of the subject merchandise. In addition, members of the PET Film Group noted that they are not importers of the subject merchandise and they are not related to any importer of the subject merchandise. The PET Film Group claimed interested party status under section 771(9)(C) of the Act as U.S. producers of a domestic like product.

On July 2, 2007, the Department received a substantive response from the PET Film Group within the deadline specified in 19 CFR 351.218(d)(3)(i). We did not receive responses from respondent interested parties in either of these proceedings. As such, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(1), the Department notified the International Trade Commission (“ITC”) that we did not receive any responses from respondent parties, and therefore, respondent interested party response was inadequate. See Letter from Susan Kuhbach, Senior Director, AD/CVD Operations, Office 1, Import Administration, to Robert Carpenter, Director, Office of Investigations, ITC, dated July 23, 2007. In accordance with section 751(c)(3)(B) of the Act, the Department has conducted an expedited review of this order.

### Discussion of the Issues

The Department has conducted these sunset reviews, in accordance with section 751(c)(1) of the Act, to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making the determination, the Department will consider both the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department will provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked.

#### 1. Likelihood of continuation or recurrence of dumping

### INDIA

The PET Film Group argues that revocation of the order on PET Film from India is likely to lead to the continuation or recurrence of dumping if the order were to be revoked. The PET Film Group noted that dumping has continued after the issuance of the order at levels well above de minimis. According to the PET Film Group, Polyplex can decrease its use of export subsidies, which would result in a proportional increase in its antidumping duty rate (i.e., Polyplex’s de minimis dumping margin is the result of its use of export subsidies). See July 2, 2007 submission of PET Film Group at 6-7.

The PET Film Group argues that the fact that two Indian exporters (Polyplex Corporation Limited (“Polyplex”) and MTZ Polyfilms, Ltd. (“MTZ”)) have had zero or de minimis dumping margins at some point during the five years that this antidumping duty order has been in effect is not probative of whether dumping would be likely to continue or recur in the absence of the antidumping duty order. The PET Film Group also argues that the fact that Ester, Jindal and all other Indian exporters of PET film continue to pay antidumping duties impacts Polyplex and MTZ even though they are not required to pay cash deposits or dumping duties on their entries, by affecting their U.S. selling prices and the products they can sell in the United States. The PET Film Group further contends that since PET Film is a product with many applications and that U.S. and Indian producers have interchangeable products that compete on price, even a small

dumping margin can mean the difference between sales won and lost in the U.S. market. See July 2, 2007 submission of PET Film Group at 7.

The PET Film Group argues that the evidence of persistent and significant dumping margins should be dispositive of likelihood and the Department should not need to examine the post-order volumes of subject merchandise. According to the PET Film Group, a review of import volumes of PET film found under HTS number 3920.62.00 since 2001 shows a decline in import volumes which provides further support for a finding that the dumping is likely to continue or recur should the order be revoked. See July 2, 2007 submission of PET Film Group at 8.

The PET Film Group contends that PET film imports from India decreased by 74 percent from 2001, the year before the issuance of the order, to 2004, the second year following the order. The PET Film Group stated that it obtained import statistics for HTS 39620.62.00 from the U.S. International Trade Commission. See July 2, 2007 submission of PET Film Group at 8-9 and Exhibit 1. The PET Film Group argues that the ITC's new statistical breakout separating metallic PET film from the PET film covered by the order makes the ITC data inappropriate for comparison. The PET Film Group noted that beginning on July 1, 2003, imports of PET film covered by the order were broken out on the ITC's dataweb by a ten-digit HTS number (3920.62.00.90) in addition to the eight-digit HTS number (3920.62.00). Given this fact, the PET Film Group states, no detailed breakout is available prior to 2003 and only partial figures are available for 2003. The PET Film Group also stated that there may have been widespread misclassification in implementing the statistical breakout. While questioning the accuracy of the data and arguing that a comparison of data is inappropriate, the PET Film Group concluded that the import volumes for the 2004 through 2006 period have remained steady and consistent with trends for the eight-digit HTS number (3920.62.00).

The volume of imports from India has decreased, according to the PET Film Group, while overall, total U.S. imports of PET film from all countries during this same period have increased. The PET Film Group argues that the remedial effects of the antidumping and countervailing duty orders have played a large part in restraining the volume of Indian imports entering the U.S. market. See July 2, 2007 submission of PET Film Group at 8.

The PET Film Group cited to section 752(c)(2) of the Act, which directs the Department to consider "other price, cost, market, or economic factors as it deems relevant" when determining whether the revocation of the antidumping duty order would likely lead to continuation or recurrence of sales at PET film at less than fair value. According to the PET Film Group, the documents provided in Exhibit 3 of the July 2, 2007 submission reinforce the explanation based on the statute at section 752(c)(1) that describes why revocation of the antidumping order would lead to the continuation or recurrence of dumped sales of PET film from India. See July 2, 2007 submission of PET Film Group at 9-10.

The PET Film Group stated that since the imposition of the order, Indian producers have made significant changes to their operations and capacity, as well as in the composition of exports to

the United States and shipments in the U.S. market. The PET Film Group quotes Jindal's 2005-2006 Annual Report, which stated "Jindal Poly Films portfolio of products in the export markets includes high value products which are not subject to such duties."<sup>4</sup> The PET Film Group further stated that it is aware that Indian producers have added capacity to their production facilities in India and have also expanded facilities in other countries. The PET Film Group included web pages from Polyplex's web site describing its investments in Thailand and Turkey. According to the PET Film Group, Polyplex is shipping increased quantities of low-priced PET Film to the United States. The PET Film Group contends that a company called Flex Industries Limited has built a facility in the United Arab Emirates and is also shipping increased quantities of low-priced PET film to the United States. See Exhibit 3 of July 2, 2007 submission of PET Film Group. Accordingly, this is evidence of the strength of the Indian industry and its ability to penetrate the U.S. market. The PET Film Group further contends that the expansion of Indian companies' PET Film production outside India is another aspect of Indian PET film producers' goal to dump large volumes of PET Film in the United States. According to the PET Film Group, this fact makes it more critical that the order on PET film remain in effect. See July 2, 2007 submission of PET Film Group at page 11.

The PET Film Group concludes by stating that if the Department were to permit revocation of the order on PET film from India, it would undermine the intent of U.S. antidumping law and make inevitable a recurrence of extensive dumping by Indian producers who would now be free to use expanded production lines in India to attack the U.S. market. See July 2, 2007 submission of PET Film Group at 11.

#### Department's Position

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, (URAA), the Department's determination of likelihood will be made on an order-wide basis. See Statement of Administrative Action to the URAA, H.R. Doc. 103-316, vol. 1 at 879 (1994) (SAA). In addition, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or c) dumping was eliminated after the issuance of an order and import volumes for the subject declined significantly. Pursuant to section 752(c)(1)(B) of the Act, the Department considers the volume of the subject merchandise for the period before and after the issuance of the antidumping duty order.

Since the issuance of the order, margins above de minimis levels were determined in the 2004-2005 administrative review for Jindal Polyester Ltd. and Ester. See Certain Polyethylene Terephthalate Film, Sheet and Strip from India: Final Results of Antidumping Duty Administrative Review, 71 FR 47485 (August 17, 2006). As noted above, the existence of dumping margins after the order is highly probative of the likelihood of continuation or

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<sup>4</sup> See Exhibit 3 of July 2, 2007 submission of PET Film Group at page 12.

recurrence of dumping. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed. If imports cease after the order is issued, it is reasonable to assume that the exporters could not sell in the United States without dumping.

Import statistics under the HTS subheading number 3920.62.00 provided by the PET Film Group, and those examined by the Department using the ITC's Trade statistics from 2002, the year that the order was issued, through year-to-date 2007, indicate that the volume of imports declined immediately following the issuance of the order. Imports have continued to decline throughout this period despite the increase in production capacity in India that the PET Film Group discussed in its submission.

Given the consistent decline in imports of PET film from India since the imposition of the antidumping duty order and the persistence of dumping margins, the Department does not deem it necessary to consider other factors. Furthermore, the PET Film Group's argument that the expanding capacity of several Indian PET Film companies both in India and overseas does not demonstrate that other factors – price, cost, market, or economic – should be considered. There is no existing circumvention case on PET Film from India and no evidence that PET film from India is being trans-shipped or that Indian companies are evading the order by establishing operations in Thailand, Turkey or the United Arab Emirates as argues by the PET Film Group.

Finally, we note that the collection of cash deposits and assessment of antidumping duties on entries of subject merchandise continues. Thus, it is likely that the order continues to have the remedial effect of restraining or reducing the volume of dumped imports into the United States.

#### TAIWAN

The PET Film Group argues that revocation of the order on PET Film from Taiwan is likely to lead to the continuation or recurrence of dumping if the order were to be revoked based on existence of dumping margins after the issuance of the order. See July 2, 2007 substantive responses of the PET Film Group at 4-9. The PET Film Group noted that the Department recognizes that continued dumping at any level above de minimis is highly probative of the likelihood of continuation or recurrence of dumping by producers and exporters of the subject merchandise. In the investigation and administrative review of the order, dumping margins above de minimis were determined for producers and exporters of PET film from Taiwan. The PET Film Group argues that based on the continued existence of dumping margins alone, the Department should determine that dumping is likely to continue were the order to be revoked. Moreover, in the past three years, the PET Film Group notes, respondents have not requested a review to demonstrate that Taiwanese producers and exporters are not dumping the subject merchandise in the U.S. market. Id.

In evaluating import volumes, the PET Film Group argues that evidence of persistent dumping margins should be dispositive such that an examination of post-order import volumes is not

necessary by the Department. However, should the Department determine it necessary to examine the level of imports, the PET FILM Group contends, changes in import volumes do not outweigh the fact that dumping is ongoing and is likely continue or recur. The PET Film Group argues that PET film is a commodity with interchangeable products that compete directly on price, where even a small dumping margin can determine the difference between sales won and lost in the U.S. market.

The PET Film Group argues that import levels decreased 35 percent during the year of investigation, 2000 through 2001, and again during the year the order went into effect, 2002, before slowly regaining import shares so that in 2006, PET Film from Taiwan was slightly above pre-order levels. As the PET Film Group illustrated in Table 1 of its substantive responses, import statistics from the ITC HTSUS subheading 3920.62.00 for the period 2000 through 2006 show that import levels declined by almost 20 percent as a percentage of total imports, in terms of quantity. *Id.* 7-8. Although import levels reached pre-order volume in 2006, the PET Film Group argues that the ITC's new statistical breakout, which separated metallic PET film from the PET film covered by the order, make the data inappropriate for comparison. The PET Film Group noted that imports of PET film covered by the order were broken out on the ITC's dataweb by a ten digit HTS number (3920.62.00.90) instead of the eight digit HTS number (3920.62.00) beginning in July 1, 2003. Given this fact, the PET Film Group argues, only partial data is available for 2003. The PET Film Group also stated that there may have been widespread problems of misclassification in implementing the statistical breakout. The PET Film Group states that the statistics shown do not comport with the commercial reality, suggesting that the increase in volume during the years 2004 through 2006 indicates that substantial volumes of metallized PET film (non-subject merchandise) may have been classified under HTS number 3920.62.00.90. The PET Film Group argues that import statistics under HTSUS subheading number 3920.62.00 demonstrated a somewhat mixed picture of the subject merchandise. While questioning the accuracy of the data and arguing that a comparison of data is inappropriate, the PET Film Group concludes that the antidumping duty order has played an important part in restraining the volume of Taiwanese imports entering the U.S. market.

The PET Film Group pointed to other factors to be considered by the Department to demonstrate that without the order in place, Taiwanese producers of PET film could resume extensive dumping. The PET Film Group believes that since the issuance of the order, Taiwanese producers and exporters have made significant changes to their operations, capacity, and shipments, as well as to the mix of products exported to the U.S. market. They argue that the Taiwanese producers have modified the mix of PET film products they export to the United States in order to reduce their dumping rates and liabilities. Further, the PET Film Group maintains that the antidumping duty order has prevented Taiwanese companies from shipping even more low-priced PET film to the United States.



### Department's Position

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, (URAA), the Department's determination of likelihood will be made on an order-wide basis. See SAA at 879. The Department further considers weighted-average dumping margins and import volumes before and after the issuance of the order. The Department examined the relationship between dumping margins and the volume of imports of the subject merchandise, comparing the periods before and after the issuance of an order. The existence of dumping margins after the order, or the cessation of imports after the order, is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed.

In PET Film from Taiwan we found dumping margins above de minimis levels in the investigation and subsequent administrative review for Nan Ya and Shinkong, the two companies examined in the investigation, and, in the investigation, for "all other" manufacturers and exporters of PET Film from Taiwan. Thus, dumping margins continue to exist under this order.

The Department compared import statistics provided by the PET Film Group, to ITC's import statistics for consumption covering pre- and post-order volumes during this sunset review. As noted by the PET Film Group, the volume of imports of PET Film from Taiwan declined immediately following the issuance of the order. See Memorandum to File; Five-Year Sunset Review on PET Film from India and Taiwan; Import Volumes, dated concurrently with this memorandum (Data Memorandum). The data also show that, in recent years, shipments of PET film from Taiwan have increased. See Data Memorandum. However, we note that dumping margins above de minimis continued during this time and throughout the history of the order. Thus, based on the rapid drop off of imports following imposition of the order, along with the continued dumping throughout the history of the order, we cannot conclude that exporters of PET film from Taiwan would be able to ship in pre-order quantities without dumping. To the contrary, the data suggest that, if the order were removed, exporters of PET film from Taiwan would be likely to ship significant quantities at dumped prices.

Section 752(c)(2) of the Act provides that, for good cause shown, the Department also will consider other information regarding price, cost, market or economic factors it deems relevant. Given that dumping margins above de minimis levels have continued since the issuance of the order, it is not necessary to consider other information regarding price, cost, market or economic factors. On the basis of the existence of dumping margins above de minimis levels, we determine that revocation of the order on PET Film from Taiwan is likely to lead to the continuation or recurrence of dumping were the order to be revoke.

## 2. Magnitude of the Margin Likely to Prevail

### INDIA

#### Interested Party Comments:

The PET Film Group argues that the Department should report to the ITC the 24.14 percent rate determined in the final determination of the original investigation for Ester and for the all-others rate, which is applied to most other producers and exporters of PET film from India. The PET Film Group bases this on the legislative history, citing to the SAA at 890. See July 2, 2007 submission of PET Film Group at 11. The PET Film Group stated that the Department found the remaining exporter, Polyplex, not to be dumping because the Department adjusted the weighted-average dumping margin for export subsidies. Given this fact, the PET Film Group argues that the Department should notify the ITC that Polyplex's dumping rate may be exceeded by the amount of export subsidies if revocation occurs. See July 2, 2007 submission of PET Film Group at 12.

#### Department's Position

The legislative history provides that the Department normally will select a rate from the final determination of the original investigation because that is the only calculated rate reflecting the behavior of exporters without the discipline of an order in place. See SAA at 890. Section 752a(c)(3) of the Act requires the Department to report its determination to the ITC. For companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide margins based on the all-others rate from the investigation. In this particular case, both the rate for Ester and the all-others rate of 24.14 percent, which were published in the amended final determination of the investigation, were adjusted to 5.71 percent to take into account the export subsidy rate found in the companion countervailing duty investigation. See Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan, 67 FR 44175 (July 1, 2002); see also Notice of Countervailing Duty Order: Polyethelene Terephthalate Film, Sheet, and Strip (PET Film) from India, 67 FR 44179 (July 1, 2002).

The Department agrees with the PET Film Group that the rates to report to the ITC are the rates from the original investigation, because those rates are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place. We determine that it is appropriate to report the rates inclusive of the adjustment for export subsidies found in the companion countervailing duty determination, to the extent that such export subsidies remain available to the investigated exporters. Our review of the record of the companion countervailing duty proceeding indicates that all of the export subsidies for which Ester's rate

was adjusted (Ester's rate was the basis of the all others rate) remain in effect.<sup>5</sup> In subsequent administrative reviews, the Department has calculated above de minimis margins for Jindal Polyfilms Limited<sup>6</sup> and a zero rate for MTZ Poly Films. Producers and exporters of PET Film from India (other than Polyplex and MTZ) continue to pay cash deposits. The Department's practice is to report rates for companies included in the less than fair value determination. For companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide the "all-others" rate determined in the investigation as the rate likely to prevail. See Certain Welded Large Diameter Line Pipe from Japan and Mexico; Notice of Final Results of Five-Year ("Sunset") Reviews of Antidumping Duty Orders, 72 FR 10498) (March 8, 2007) and accompanying Issues and Decision Memorandum, at "Magnitude of the Margin Likely to Prevail." As such, the Department will report rates for Ester, Polyplex, and all others.

Therefore, consistent with section 752(c) of the Act, the Department is reporting to the ITC the company-specific and "all others" rates from the investigation as indicated in the "Final Results of Review" section of this memorandum.

## TAIWAN

The PET Film Group argues that the Department should report to the ITC the rates determined in the final determination of the original investigation for Nan Ya, Shinkong, and for all other producers and exporters of PET Film from Taiwan.

### Department's Position

Section 752(c)(3) of the Act requires the Department to determine the margin of dumping likely to prevail if the order were to be revoked. The legislative history provides that the Department normally will select a rate from the final determination of the original investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place. See SAA at 890. Section 752a(c)(3) of the Act requires the Department to report its determination to the ITC. For companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide margins based on the all-others rate from the investigation.

The Department agrees with the PET Film Group on the rates to report to the ITC. In the final determination of the original investigation, weighted average dumping margins were found above de minimis levels for manufacturers and exporters of PET Film from Taiwan. In the only

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<sup>5</sup> See Final Results of Expedited Sunset Review of Countervailing Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India and accompanying Issues and Decision Memorandum, issued concurrently with these final results of sunset reviews.

<sup>6</sup> Jindal Poly Films Limited was formerly known as Jindal Polyester Ltd.

administrative review, dumping margins above de minimis continued. The collection of cash deposits and assessment of antidumping duties for producers and exporters of PET Film from Taiwan continues.

Consistent with the Department's regulations, we determine that the margins from the Department's final determination of the original investigation are probative of the rates likely to prevail for manufacturers and exporters of PET film from Taiwan if the order were to be revoked. Therefore, pursuant to section 752a(c)(3) of the Act, the Department will report to the ITC the rates from the investigation as indicated in the "Final Results of Review" section of this memorandum.

#### Final Results of Review

The Department determines that revocation of the order on PET Film from India and Taiwan would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturer/Producer/Exporter	Margin (percent)
<u>INDIA</u>	
Ester	5.71 <sup>7</sup>
Polyplex	0.01
All Others	5.71 <sup>8</sup>
<u>TAIWAN</u>	
Nan Ya Plastics Corporation, Ltd.	2.70
Shinkong Synthetic Fibers Corporation	2.05
All Others	2.40

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<sup>7</sup> In the investigation, we found Ester's rate to be 24.14 percent, which was adjusted to 5.71 percent to take into account the export subsidy rate found in the companion countervailing duty investigation.

<sup>8</sup> The all-others rate established in the investigation was based on Ester's rate.

Recommendation

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of these sunset reviews in the Federal Register.

Agree \_\_\_\_\_

Disagree \_\_\_\_\_

\_\_\_\_\_  
David M. Spooner  
Assistant Secretary  
for Import Administration

\_\_\_\_\_  
Date